

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 428 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MANHAR S. KHRISCHIAN

Versus

JIVANBHAI JESANGBHAI DESAI

Appearance:

MR MG NAGARKAR for the appellant
MR AV TRIVEDI for Respondent No. 1
MR KP RAVAL, APP, for Respondent No. 2

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 05/10/98

ORAL JUDGEMENT

A sample of cow's milk was taken by the Food

Inspector of the Ahmedabad Municipal Corporation and was forwarded to the Food and Drugs Laboratory, Baroda which was analysed and was found to have been adulterated. Hence the Food Inspector Mr Manhar S.Christian has filed the complaint before the Metropolitan Magistrate, Ahmedabad. The accused, present respondent No.1, came to be tried for the offence under section 16(1)(a)(i) of the Prevention of Food Adulteration Act. The trial resulted in acquittal of the accused vide judgment dated 3rd March, 1990. Two reasons for the acquittal recorded by the Metropolitan Magistrate are that (1) panchnama is not proved and (2) the sanction for the prosecution is not valid. Hence this appeal is filed by the Food Inspector.

2. Learned advocate Mr Trivedi has drawn my attention to a judgment of this Court in Criminal Appeal No.200/87 (Coram: N.N.Mathur, J.) decided on 14th February, 1994 wherein the single Bench of this Court has taken the view relying on the decisions of the High Court of Bombay in Criminal Appeal No.818/69 decided on 15th December, 1970 and Criminal Appeal No.1008/69 decided on 25th April, 1969 that where the report of the public analyst was not signed on the day the sample was analysed, but was signed much later the same would cease to have the evidentiary value. Similar are the circumstances in the present case. The Public Analyst report at Ex.12 reveals that the sample of cows milk was analysed on 8th April 1987 whereas the report was signed by the Public Analyst on 18th April 1997. Thus there was delay in signing the report after the analysis of the sample for about 10 days. In this view of the matter, the ratio of the above mentioned judgement of this High Court applies in this case also and there is no reason to take a contrary view than the one taken by the Bombay High Court and the single Bench of this High Court.

3. In this view of the matter, the acquittal order passed by the Metropolitan Magistrate, Ahmedabad requires no interference at all. In the result, the appeal stands dismissed.

.....

(vjn)